

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I (a) PLAINTIFFS LMBE PROJECT COMPANY, LLC	DEFENDANTS AMERICAN ELECTRICAL TESTING
(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF Montgomery Cty, Texas _____ (EXCEPT IN U.S. PLAINTIFF CASES)	COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT PA _____ (IN U.S. PLAINTIFF CASES ONLY) NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED
(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER) John F. Kennedy 200 S. Broad Street Philadelphia, PA 19102 (215) 940-0479 tgargon@gracekennedylaw.com	ATTORNEYS (IF KNOWN) Basil A. DiSipio, Esquire Lavin Cedrone Graver Boyd & DiSipio 190 N. Independence Mall West Suite 500 Philadelphia, PA 19106 (215) 627-0303 bdisipio@lavin-law.com

II. BASIS OF JURISDICTION (PLACE AN "X" IN ONE BOX ONLY)	III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE FOR DEFENDANT) (For Diversity Cases Only)																								
<input type="checkbox"/> 1 U.S. Government Plaintiff <input type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) <input checked="" type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	<table style="width: 100%;"> <tr> <th></th> <th>PTF</th> <th>DEF</th> <th></th> <th>PTF</th> <th>DEF</th> </tr> <tr> <td>Citizen of This State</td> <td><input type="checkbox"/> 1</td> <td><input type="checkbox"/> 1</td> <td>Incorporated <i>or</i> Principal Place of Business in This State</td> <td><input type="checkbox"/> 4</td> <td><input checked="" type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td><input type="checkbox"/> 2</td> <td><input type="checkbox"/> 2</td> <td>Incorporated <i>and</i> Principal Place of Business in Another State</td> <td><input checked="" type="checkbox"/> 5</td> <td><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="checkbox"/> 3</td> <td><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td><input type="checkbox"/> 6</td> <td><input type="checkbox"/> 6</td> </tr> </table>		PTF	DEF		PTF	DEF	Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated <i>or</i> Principal Place of Business in This State	<input type="checkbox"/> 4	<input checked="" type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated <i>and</i> Principal Place of Business in Another State	<input checked="" type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
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Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated <i>and</i> Principal Place of Business in Another State	<input checked="" type="checkbox"/> 5	<input type="checkbox"/> 5																				
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6																				

IV. NATURE OF SUIT (PLACE AN x IN ONE BOX ONLY)					
CONTRACT <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input checked="" type="checkbox"/> 385 Property Damage Product Liability	FORFEITURE/PENALTY <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	BANKRUPTCY <input type="checkbox"/> 442 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (139ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Tile XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	OTHER STATUTES <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Arts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 520 General Habeas Corpus: <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Other			

V. ORIGIN (PLACE AN x IN ONE BOX ONLY)	Transferred from another district (specify) _____
<input type="checkbox"/> 1 Original Proceeding <input checked="" type="checkbox"/> 2 Removed from State Court <input type="checkbox"/> 3 Remanded from Appellate Court <input type="checkbox"/> 4 Reinstated or Reopened <input type="checkbox"/> 5 _____ <input type="checkbox"/> 6 Multidistrict Litigation <input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judgment	

VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY) 28 U.S.C. 1332 (a)

VII. REQUESTED IN COMPLAINT: \$52,032,571.56 (demand)	CHECK IF THIS IS A <input type="checkbox"/> UNDER F.R.C.P. 23	CLASS ACTION	DEMAND \$	Check YES only if demanded in complaint: JURY DEMAND <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
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VIII. RELATED CASE(S) IF ANY	(See instructions):	JUDGE	DOCKET NUMBER
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DATE November 23, 2021 SIGNATURE OF ATTORNEY OF RECORD

Basil A. DiSipio

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

UNITED STATES DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA—DESIGNATION FORM to be used by counsel to
indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: LMBE Project Company, 1780 Hughes Landing Boulevard, Ste 800, The Woodlands, TX

Address of Defendant: Asplundh Tree Expert, LLC, 708 Blair Mill Road, Willow Grove, PA 19090

Place of Accident, incident or Transaction: _____
(Use Reverse Side for Additional Space)

Does this case involve multidistrict litigation possibilities? Yes ☐ No ☒

RELATED CASE IF ANY

Case Number: _____ Judge: _____ Date Terminated: _____

Civil cases are deemed related when "yes" is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? Yes ☐ No ☒
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court? Yes ☐ No ☒
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court? Yes ☐ No ☒

CIVIL: (Place ☒ in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act—Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☐ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☐ All other Federal Question Cases
(Please specify _____)

B. Diversity Jurisdiction Cases:

1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☐ Other Personal Injury (Please specify): Negligence
7. ☒ Products Liability
8. ☐ Products Liability—Asbestos
9. ☐ All other Diversity Cases
(Please specify)

ARBITRATION CERTIFICATION

(Check appropriate category)

I, _____ counsel of record, do hereby certify:

- ☒ Pursuant to Local Civil Rule 8, Section 4(a)(2), that, to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000 exclusive of interest and cost;
- ☐ Relief other than monetary damages is sought.

DATE: November Basil A. DiSipio 28212
Attorney-at-Law Attorney ID#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: _____
Attorney-at-Law Attorney ID#

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CASE MANAGEMENT TRACK DESIGNATION FORM

LMBE PROJECT COMPANY, LLC

v.

EATON CORPORATION, AMERICAN
ELECTRICAL TESTING

Civil Action No.: _____

Transferor Court:
Court of Common Pleas
Philadelphia County
November Term, 2021 No. 00305

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a case management track designation form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS

- (a) Habeas Corpus – Cases brought under 28 U.S.C. §2241 through §2255. ☐
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ☐
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ☐
- (d) Asbestos—Cases involving claims for personal injury or property damage from exposure to asbestos. ☐
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ☐
- (f) Standard Management – Cases that do not fall into any one of the other tracks. ☒

November 23, 2019
Date

Basil A. DiSipio
Attorney-at-law

American Electrical Testing
Attorney for

(215) 627-0303
Telephone

(215) 627-2551
Fax Number

BDiSipio@Lavin-Law.com
E-Mail Address

APPENDIX G

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

LMBE PROJECT COMPANY, LLC

V.

Civil Action

No: _____

EATON CORPORATION, AMERICAN
ELECTRICAL TESTING

DISCLOSURE STATEMENT FORM

Please check one box:

☒

The nongovernmental corporate party, American Electrical Testing, LLC,
, in the above listed civil action does not have any parent corporation and
publicly held corporation that owns 10% or more of its stock.

☐

The nongovernmental corporate party, _____
, in the above listed civil action has the following parent corporation(s) and
publicly held corporation(s) that owns 10% or more of its stock:

NOVEMBER 23, 2021

Date

Signature

Counsel for: Defendant, American Electrical Testing

Federal Rule of Civil Procedure 7.1 Disclosure Statement

- (a) WHO MUST FILE; CONTENTS. A nongovernmental corporate party must file two copies of a disclosure statement that:
- (1) identifies any parent corporation and any publicly held corporation owning 10% or more of its stock; or
 - (2) states that there is no such corporation.
- (b) TIME TO FILE; SUPPLEMENTAL FILING. A party must:
- (1) file the disclosure statement with its first appearance, pleading, petition, motion, response, or other request addressed to the court; and
 - (2) promptly file a supplemental statement if any required information changes.

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

LMBE PROJECT COMPANY, LLC	:	
	:	
v.	:	CIVIL ACTION NO.: _____
	:	
EATON CORPORATION, AMERICAN	:	Transferor Court:
ELECTRICAL TESTING COMPANY, LLC	:	Court of Common Pleas
	:	Philadelphia County
	:	November Term 2021 No.: 00305

PETITION FOR NOTICE OF REMOVAL

Defendant, American Electrical Testing Company, (“AET”) hereby gives Notice of Removal of this action pursuant to 28 U.S.C. section 1332, 1441 and 1446, to the United States District Court for the Eastern District of Pennsylvania.

1. Plaintiff, LMBE Project Company, LLC (“LMBE”) brought an action in the Philadelphia County Court of Common Pleas seeking to hold AET and Eaton Corporation (“Eaton”) liable for damages LMBE allegedly sustained as a result of an incident which occurred on or about November 5, 2019 at the LMBE facility in Bangor, PA.

2. Removal is proper because this Court has subject matter jurisdiction conferred by complete diversity of citizenship and amount in controversy, and AET has met the procedural requirements for Removal. Plaintiff’s Complaint has not been served on Removing defendant which is a resident of the Commonwealth of Pennsylvania, Removing defendant has the consent of the co-defendant and this Notice is being filed within 30 days of Removing Defendant’s securing LMBE’s Complaint.

3. This action is properly removed under 28 U.S.C. section 1332(a) and 1441(b) which provide for Removal where the matter in controversy exceeds the sum or value of \$75,000 exclusive of interest and costs, and the dispute is between citizens of different States. 28 U.S.C. section 1332(a).

4. LMBE's Complaint was filed in the court of Common Pleas of Philadelphia County on November 3, 2021. A copy of the Complaint is attached as Exhibit "A."

5. LMBE's Complaint states that LMBE is a limited liability company formed under the laws of Delaware with its principal place of business located in The Woodlands, Texas. See Exhibit "A."

6. LMBE's Complaint states that Eaton is incorporated and has its principal place of business in the State of Ohio. See Exhibit "A."

7. LMBE's Complaint alleges that AET is a limited liability company formed under the laws of Massachusetts with its principal place of business located in Willow Grove, Pennsylvania. See Exhibit "A."

8. LMBE's Complaint states that the damages claimed are in the amount of \$53,032,571.56 . See Exhibit "A."

9. Hence, all of the parties are residents of different States. In other words, there is complete diversity of citizenship and the amount in controversy, exclusive of interest and costs, is in excess of \$75,000.00.

10. Removal to this Court is proper because it is the District and Division embracing the place where such action is pending. 28 U.S.C. section 1441(a). This action is currently pending in Philadelphia County Pennsylvania which is within the Eastern District of Pennsylvania. 28 U.S.C. section 118

11. AET has met the procedural requirements for removal. As of the date AET filed this Notice of Removal, it had not been served with plaintiff's Complaint.

12. The co-defendant, Eaton, has consented to Removal of the case to the United States District Court for the Eastern District of Pennsylvania.

13. All other pleadings, process, orders and other filings in the State Court action are attached to this Notice of Removal as required by 28 U.S.C. section 1446(a). See Exhibit “B.”


14. AET is serving a copy of this Notice of Removal upon counsel for Plaintiff and counsel for Eaton, along with a copy of the Complaint which AET secured from the Philadelphia County Court of Common Pleas directly on November 23, 2021. Hence, this Notice of Removal is being filed within 30 days “after receipt by the defendant, though service or otherwise, of a copy of the initial pleading.” 28 U.S.C. section 1446(b)(1).

15. AET will promptly file a copy of this Notice of Removal with the Clerk of the Philadelphia County Court of Common Pleas, where the action was originally filed.

WHEREFORE, Defendant, American Electrical Testing Company, LLC hereby requests this action be removed from the Court of Common Pleas of Philadelphia County to the United States District Court for the Eastern District of Pennsylvania.

Respectfully submitted,

DATED: November 23, 2021



BASIL A. DISIPIO, ESQUIRE
MICHAEL J. QUINN, ESQUIRE
Attorneys for Defendant,
American Electrical Testing Company, LLC
190 N. Independence Mall West
Suite 500
Philadelphia, PA 19106
(215) 627-0303 (phone)
(215) 627-2551 (fax)
bdisipio@lavin-law.com (e-mail)
mquinn@lavin-law.com (e-mail)

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

LMBE PROJECT COMPANY, LLC	:	
v.	:	CIVIL ACTION NO.: _____
EATON CORPORATION, AMERICAN ELECTRICAL TESTING	:	Transferor Court: Court of Common Pleas Philadelphia County November Term 2021 No.: 00305

CERTIFICATE OF SERVICE

I hereby certify that on November 23, 2021, I caused the Notice of Removal for Defendant, American Electrical Testing, and the related Corporate Disclosure to be served upon the following recipients:

John F. Kennedy, Esquire
200 S. Broad Street
Suite 500
Philadelphia, PA 19102

Respectfully submitted,

DATED: November 23, 2021



BASIL A. DISIPIO, ESQUIRE
MICHAEL J. QUINN, ESQUIRE
Attorneys for Defendant,
American Electrical Testing
190 N. Independence Mall West
Suite 500
Philadelphia, PA 19106
(215) 627-0303 (phone)
(215) 627-2551 (fax)
bdisipio@lavin-law.com (e-mail)
mquinn@lavin-law.com (e-mail)

LAVIN, CEDRONE, GRAVER, BOYD & DISIPIO

BY: BASIL A. DISIPIO

MICHAEL J. QUINN

ATTORNEY ID NOS.: 28212/59157

190 N. Independence Mall West

Suite 500

Philadelphia, PA 19106

(215) 627-0303

Attorneys for Defendant,

American Electrical Testing

LMBE PROJECT COMPANY, LLC	:	
	:	Court of Common Pleas
v.	:	Philadelphia County
	:	November Term 2021 No.: 00305
EATON CORPORATION, AMERICAN	:	
ELECTRICAL TESTING	:	

NOTICE OF FILING OF NOTICE OF REMOVAL

TO THE PROTHONOTARY:

PLEASE TAKE NOTICE that Defendant, American Electrical Testing, by and through its counsel, Lavin, Cedrone, Graver, Boyd & DiSipio, and pursuant to 28 U.S.C. §1331, § 1332, §1441, §1442 and §1446, have removed this matter in its entirety to the United States District Court for the Eastern District of Pennsylvania, **Civil Action No. . .**. A copy of Defendant's Notice of Removal filed with the United States District Court for the Eastern District of Pennsylvania is attached hereto as Exhibit "A".

LAVIN, CEDRONE, GRAVER, BOYD & DISIPIO

BY: _____/s/

BASIL A. DISIPIO, ESQUIRE

MICHAEL J. QUINN, ESQUIRE

Attorneys for Defendant,

American Electrical Testing

(215) 627-0303 (phone)

(215) 627-2551 (fax)

bdisipio@lavin-law.com (e-mail)

mquinn@lavin-law.com (e-mail)

EXHIBIT A

Court of Common Pleas of Philadelphia County
Trial Division
Civil Cover Sheet

For Prothonotary Use Only (Docket Number)	
NOVEMBER 2021 E-Filing Number: 2111007495 000305	
PLAINTIFF'S NAME LMBE PROJECT COMPANY, LLC	DEFENDANT'S NAME EATON CORPORATION
PLAINTIFF'S ADDRESS 1790 HUGHES LANDING BOULEVARD SUITE 800 THE WOODLANDS TX 77380	DEFENDANT'S ADDRESS 6055 ROCKSIDE WOODS BLVD. N CLEVELAND OH 44131
PLAINTIFF'S NAME	DEFENDANT'S NAME AMERICAN ELECTRICAL TESTING COMPANY, LLC
PLAINTIFF'S ADDRESS	DEFENDANT'S ADDRESS 708 BLAIR MILL ROAD WILLOW GROVE PA 19090
PLAINTIFF'S NAME	DEFENDANT'S NAME
PLAINTIFF'S ADDRESS	DEFENDANT'S ADDRESS
TOTAL NUMBER OF PLAINTIFFS 1	TOTAL NUMBER OF DEFENDANTS 2 COMMENCEMENT OF ACTION <input checked="" type="checkbox"/> Complaint <input type="checkbox"/> Petition Action <input type="checkbox"/> Notice of Appeal <input type="checkbox"/> Writ of Summons <input type="checkbox"/> Transfer From Other Jurisdictions
AMOUNT IN CONTROVERSY <input type="checkbox"/> \$50,000.00 or less <input checked="" type="checkbox"/> More than \$50,000.00	COURT PROGRAMS <input type="checkbox"/> Arbitration <input type="checkbox"/> Mass Tort <input type="checkbox"/> Commerce <input type="checkbox"/> Settlement <input checked="" type="checkbox"/> Jury <input type="checkbox"/> Savings Action <input type="checkbox"/> Minor Court Appeal <input type="checkbox"/> Minors <input type="checkbox"/> Non-Jury <input type="checkbox"/> Petition <input type="checkbox"/> Statutory Appeals <input type="checkbox"/> W/D Survival <input type="checkbox"/> Other:
CASE TYPE AND CODE CP - PRODUCT LIABILITY	
STATUTORY BASIS FOR CAUSE OF ACTION	
RELATED PENDING CASES (LIST BY CASE CAPTION AND DOCKET NUMBER) <div style="text-align: center;"> FILED PRO PROTHY NOV 03 2021 S. RICE </div>	
IS CASE SUBJECT TO COORDINATION ORDER? YES NO	
TO THE PROTHONOTARY: Kindly enter my appearance on behalf of Plaintiff/Petitioner/Appellant: <u>LMBE PROJECT COMPANY, LLC</u> Papers may be served at the address set forth below.	
NAME OF PLAINTIFF'S/PETITIONER'S/APPELLANT'S ATTORNEY JOHN F. KENNEDY	ADDRESS 200 S. BROAD STREET SUITE 500 PHILADELPHIA PA 19102
PHONE NUMBER (215) 940-0479	FAX NUMBER (215) 875-4000
SUPREME COURT IDENTIFICATION NO. 88794	E-MAIL ADDRESS tgargon@gracekennedylaw.com
SIGNATURE OF FILING ATTORNEY OR PARTY JOHN KENNEDY	DATE SUBMITTED Wednesday, November 03, 2021, 12:05 pm

GRACE & KENNEDY, P.C.

By: John F. Kennedy, Esquire

Identification No. 88794

By: Nicole E. Jackson, Esquire

Identification No. 320886

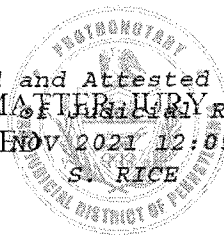
200 S. Broad Street, Suite 500

Philadelphia, PA 19102

215-875-4000

215-875-4001 (fax)

THIS IS NOT AN
 ARBITRATION MATTER. JURY
 TRIAL DEMAND



LMBE PROJECT COMPANY, LLC	:	PHILADELPHIA COURT OF COMMON
1780 Hughes Landing Boulevard Suite 800	:	PLEAS
The Woodlands, TX 77380	:	
	:	
V.	:	
	:	
EATON CORPORATION	:	
6055 Rockside Woods Blvd N	:	
Cleveland, OH 44131	:	
	:	
And	:	
	:	
AMERICAN ELECTRICAL TESTING	:	
COMPANY, LLC	:	
708 Blair Mill Road	:	
Willow Grove, PA 19090	:	

CIVIL ACTION COMPLAINT

NOW COMES LMBE Project Company, LLC, by and through its undersigned counsel, Grace & Kennedy, P.C. and for its Civil Action Complaint against Eaton Corporation and American Electrical Testing Company, LLC, states as follows:

PARTIES

1. LMBE Project Company, LLC ("LMBE") is a limited liability company formed under the laws of Delaware with its principal place of business located in The Woodlands, TX. LMBE owns and operates the Lower Mount Bethel Power Plant, a natural gas fired facility consisting of two combustion turbines and one steam turbine located in Bangor, PA.

2. Defendant Eaton Corporation (“Eaton”) is a corporation formed under the laws of Ohio with its principal place of business located in Beachwood, Ohio. Eaton sells a variety of industrial electronic and mechanical components, including circuit breakers, switches, panel boards, meters, sensors, and relays.

3. Defendant American Electrical Testing Company, LLC. (“AET”) is a limited liability company formed under the laws of Massachusetts with its principal place of business located in Willow Grove, Pennsylvania. AET provides testing, commissioning, and related services to the power industry.

JURISDICTION

4. The Court has jurisdiction over the Defendants in this lawsuit pursuant to 42 Pa. C.S.A. §5322 because each Defendant caused the Plaintiff damage within this Commonwealth.

5. This Court has jurisdiction over each of the Defendants because each Defendant either has its principal place of business in Pennsylvania, is incorporated in Pennsylvania, or is registered to do business in Pennsylvania, has consented to jurisdiction in Pennsylvania and/or does sufficient business in, or has sufficient minimum contacts with, or otherwise intentionally avails itself of the markets of the Commonwealth of Pennsylvania through its business operations in Pennsylvania.

VENUE

6. Venue is proper in this Court pursuant Pa.R.C.P. § 2179 (a) (2) because all Defendants were authorized to do business within the Commonwealth of Pennsylvania and regularly conduct business in Philadelphia County, and have sufficient minimum contacts with, or otherwise intentionally avail themselves of the markets of the Commonwealth of Pennsylvania and specifically Philadelphia County through its business operations and sale of its

products/services in Philadelphia County to include regularly conducting business in Philadelphia through its sale of products and provision of services in Philadelphia.

BACKGROUND

7. On or about Tuesday November 5th, 2019, the Lower Mount Bethel Power Plant experienced a sudden power outage.

8. On information and belief, the power outage resulted from work being done at the 230KV switchyard adjacent to the power plant. The work was being done by Defendant AET on behalf of the owner of the switchyard, PPL Corporation.

9. When the power plant lost power, the plant's distributed control system (DCS) automatically sent a signal to start the emergency oil pump to provide lubrication for the steam turbine.

10. However, a contact in a relay manufactured by Defendant Eaton did not engage, and the lube oil pump did not start, resulting in the steam turbine coasting down without oil supplied to the bearings and causing heavy vibration, high bearing and journal temperatures, and substantial damage to the steam turbine.

COUNT I – STRICT PRODUCT LIABILITY **LMBE v. EATON CORPORATION**

11. Plaintiff LMBE adopts and incorporates by reference Paragraphs 1-10 above, as Paragraph 11 of Count I as though fully set forth herein.

12. Eaton designed, manufactured, distributed, and sold the relay whose contact failed to engage when the power plant lost power.

13. Prior to November 5, 2019 and at the time the relay left the control of Eaton, the relay was defective and unreasonably dangerous because of a manufacturing defect which prevented the relay from making contact. Although LMBE has been unable to open the relay's

polymer casing, on information and belief, the relay intermittently fails to make contact because foreign material introduced in the manufacturing process impedes contact or travel of the plunger; the magnetic coil could be broken; or the relay could be losing tension on one side due to a defect in the spring material; or due to some other defect impairing the relay's functionality and/or reliability.

14. This defect, which was undetectable to LMBE, existed when it left Eaton's possession and created an unreasonable risk of harm.

15. As a direct and proximate result of this unreasonably dangerous condition, the steam turbine at the power plant sustained significant damage and LMBE sustained business interruption losses.

16. As a result, LMBE incurred damages in the sum of \$52,032,571.56.

WHEREFORE, LMBE Project Company, LLC respectfully requests that this Court enter judgment in its favor and against Eaton Corporation in the amount of its provable damages and award interests, costs, and any other relief that this Court deems just.

COUNT II-NEGLIGENCE
LMBE PROJECT COMPANY LLC vs. EATON CORPORATION

17. Plaintiff incorporates by reference the preceding averments as though set forth at length herein.

18. The aforementioned damages were the direct and proximate result of the negligence and carelessness of Eaton, by and through employees, agents, technicians, vendors, subcontractors, and/or servants, more specifically described as follows:

- a. failing to exercise reasonable care in the following manner:
 - i. failing to design, assemble, manufacture, sell, test, distribute and/or market a properly functioning product;
 - ii. failing to properly inspect and/or test the subject relay and/or its component parts;

- iii. failing to properly determine that the subject relay and/or its component parts were not in compliance with applicable standards;
 - iv. failing to provide safe and adequate warnings or instructions with the subject relay;
 - v. and/or designing, assembling, manufacturing, selling, testing, distributing and/or marketing the subject relay when Eaton knew or should have known that the product and/or its component parts would be inadequate for the reasons for which it was purchased.
- b. failing to adequately instruct, supervise and/or train servants, employees, and agents as to the proper ways to perform the tasks set forth in subparagraph (a);
 - c. failing to adequately warn the Plaintiff and others of the dangers and hazardous conditions resulting from the conduct set forth in subparagraph (a) above;
 - d. failing to provide, establish, and/or follow proper and adequate controls so as to ensure the proper performance of the tasks set forth in subparagraph (a) above;
 - e. failing to properly monitor the work of all agents and/or employees during the installation of the relay to ensure compliance with applicable safety procedures;
 - f. failing to retain competent, qualified and/or able agents, employees, or servants to perform the tasks set forth in subparagraph (a) above;
 - g. failing to perform the tasks set forth in subparagraph (a) above in conformity with the prevailing industry and governmental specifications and standards; and/or
 - h. violating the standards of care prescribed by statutes, rules, regulations, ordinances, codes, and/or industry customs applicable to this action.

19. As a direct and proximate result of such conduct, Plaintiff, LMBE incurred damages in the sum of \$52,032,571.56

WHEREFORE, LMBE Project Company, LLC respectfully requests that this Court enter judgment in its favor and against Eaton Corporation in the amount of its provable damages and award interests, costs, and any other relief that this Court deems just.

COUNT III – NEGLIGENCE
LMBE PROJECT COMPANY LLC vs. AMERICAN ELECTRICAL TESTING

20. Plaintiff LMBE adopts and incorporates by reference Paragraphs 1 – 19 above, as Paragraph 20 of Count III as though fully set forth herein.

21. At all times relevant hereto, American Electrical Testing (hereinafter referred to as "AET") owed the Plaintiff a duty to exercise reasonable care and caution in performing its operation and work at the switchyard adjacent to LMBE's power plant, so as to avoid harming Plaintiff's property and business.

22. Notwithstanding the aforesaid duty and in breach thereof, in the course of performing testing of trip circuits, an AET technician negligently placed a test jumper on terminals in the wrong panel, causing LMBE's power plant to lose power. Specifically, AET was supposed to test the East Bus Breaker, which was in the open position. The AET Technician, however, instead began testing the trip circuits on the West Bus Breaker, which opened the West Bust Breaker switch. As a result, the generator breakers opened, and the two main incoming breakers opened as well, resulting in the LMBE power plant's loss of power.

23. As a direct and proximate result of AET's negligence, the steam turbine at the power plant sustained significant damage and LMBE sustained business interruption losses.

24. AET employees were at all time relevant hereto acting within the course and scope of their employment with AET.

25. The aforementioned damages were the direct and proximate result of the negligence and carelessness of AET by and through employees, agents, technicians, vendors, subcontractors, and/or servants, more specifically described as follows:

- a. failing to exercise reasonable care in the following manner:
 - i. Failure to adequately and competently perform trip testing services so as not to cause injury and damage to Plaintiff's property;
 - ii. Failure to adequately and competently train employees to perform trip testing services so as not to cause injury and damage to Plaintiff's property;
 - iii. Failure to categorize the risk of likelihood of injury and damage to Plaintiff's property caused by shoddy and inadequate trip testing services

- b. failing to adequately instruct, supervise and/or train servants, employees, and agents as to the proper ways to perform the tasks set forth in subparagraph (a);
- c. failing to adequately warn Plaintiff and others of the dangers and hazardous conditions resulting from the conduct set forth in subparagraph (a) above
- d. failing to provide, establish, and/or follow proper and adequate controls so as to ensure the proper performance of the tasks set forth in subparagraph (a) above;
- e. failing to properly monitor the work of all agents and/or employees during the installation of the product to ensure compliance with applicable safety procedures;
- f. failing to retain competent, qualified and/or able agents, employees, or servants to perform the tasks set forth in subparagraph (a) above;
- g. failing to perform the tasks set forth in subparagraph (a) above in conformity with the prevailing industry and governmental specifications and standards; and/or
- h. violating the standards of care prescribed by statutes, rules, regulations, ordinances, codes, and/or industry customs applicable to this action.

26. As a result, LMBE incurred damages in the sum of \$52,032,571.56.

WHEREFORE, LMBE Project Company, LLC respectfully requests that this Court enter judgment in its favor and against American Electrical Testing Co., LLC. in the amount of its provable damages and award interests, costs, and any other relief that this Court deems just.

Respectfully submitted:

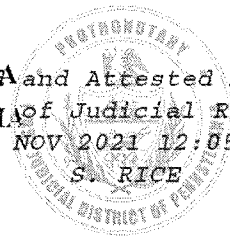
GRACE & KENNEDY, PC

By: /s/ John F. Kennedy, Esquire
John F. Kennedy, Esquire
Nicole E. Jackson, Esquire
Attorneys for Plaintiff,
LMBE Project Company, LLC

Date: 11/3/21

**FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
COURT OF COMMON PLEAS OF PHILADELPHIA**

and Attested by the
Office of Judicial Records
03 NOV 2021 12:05 pm



LMBE PROJECT COMPANY, LLC
1780 Hughes Landing Boulevard Suite 800
The Woodlands, TX 77380

V.

EATON CORPORATION
6055 Rockside Woods Blvd N
Cleveland, OH 44131

And

AMERICAN ELECTRICAL TESTING
COMPANY, LLC
708 Blair Mill Road

NOTICE TO DEFEND

NOTICE

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

You should take this paper to your lawyer at once. If you do not have a lawyer or cannot afford one, go to or telephone the office set forth below to find out where you can get legal help.

Philadelphia Bar Association
Lawyer Referral
and Information Service
One Reading Center
Philadelphia, Pennsylvania 19107
(215) 238-6333
TTY (215) 451-6197

AVISO

Le han demandado a usted en la corte. Si usted quiere defenderse de estas demandas expuestas en las paginas siguientes, usted tiene veinte (20) dias de plazo al partir de la fecha de la demanda y la notificacion. Hace falta ascender una comparencia escrita o en persona o con un abogado y entregar a la corte en forma escrita sus defensas o sus objeciones a las demandas en contra de su persona. Sea avisado que si usted no se defiende, la corte tomara medidas y puede continuar la demanda en contra suya sin previo aviso o notificacion. Ademias, la corte puede decidir a favor del demandante y requiere que usted cumpla con todas las provisiones de esta demanda. Usted puede perder dinero o sus propiedades u otros derechos importantes para usted.

Lleve esta demanda a un abogado inmediatamente. Si no tiene abogado o si no tiene el dinero suficiente de pagar tal servicio. Vaya en persona o llame por telefono a la oficina cuya direccion se encuentra escrita abajo para averiguar donde se puede conseguir asistencia legal.

Asociacion De Licenciados
De Filadelfia
Servicio De Referencia E
Informacion Legal
One Reading Center
Filadelfia, Pennsylvania 19107
(215) 238-6333
TTY (215) 451-6197

VERIFICATION

Filed and Attested by the
Office of Judicial Records
03 NOV 2021 12:05 pm

I hereby verify that I am the Plaintiff and that the information contained in the foregoing Complaint is true and correct to the best of my knowledge, information, and belief. This verification is made subject to the penalties of 18 Pa. C.S.A. §4904, relating to unsworn falsification to authorities.


LMBE, Project Company LLC

Date: 2 Nov 2021

Court of Common Pleas of Philadelphia
County Trial Division
Civil Cover Sheet

Court of Common Pleas of Philadelphia County Trial Division Civil Cover Sheet		For Office of Judicial Records Use Only (Docket Number) Filed and Attested by the Office of Judicial Records 03 NOV 2021 12:05 pm S. RICE 	
PLAINTIFF'S NAME LMBE PROJECT COMPANY, LLC		DEFENDANT'S NAME EATON CORPORATION	
PLAINTIFF'S ADDRESS 1780 Hughes Landing Boulevard Suite 800 The Woodlands, TX 77380		DEFENDANT'S ADDRESS 6055 Rockside Woods Blvd N, Cleveland, OH 44131	
PLAINTIFF'S NAME		DEFENDANT'S NAME AMERICAN ELECTRICAL TESTING COMPANY, LLC	
PLAINTIFF'S ADDRESS		DEFENDANT'S ADDRESS 708 Blair Mill Road, Willow Grove, PA 19090	
PLAINTIFF'S NAME		DEFENDANT'S NAME	
PLAINTIFF'S ADDRESS		DEFENDANT'S ADDRESS	
TOTAL NUMBER OF PLAINTIFFS 1	TOTAL NO. OF DEFENDANTS 2	COMMENCEMENT OF ACTION <input checked="" type="checkbox"/> Complaint <input type="checkbox"/> Petition Action <input type="checkbox"/> Notice of Appeal <input type="checkbox"/> Writ of Summons <input type="checkbox"/> Transfer From Other Jurisdictions	
AMOUNT IN CONTROVERSY <input type="checkbox"/> \$50,000.00 or less <input checked="" type="checkbox"/> More than \$50,000.00	COURT PROGRAMS <input type="checkbox"/> Arbitration <input checked="" type="checkbox"/> Jury <input type="checkbox"/> Non-Jury <input type="checkbox"/> Other: _____	<input type="checkbox"/> Mass Tort <input type="checkbox"/> Savings Action <input type="checkbox"/> Petition	<input type="checkbox"/> Minor Court Appeal <input type="checkbox"/> Statutory Appeals <input type="checkbox"/> Commerce (Completion of Addendum Required) <input type="checkbox"/> Settlement <input type="checkbox"/> Minors <input type="checkbox"/> W/D-Survival
CASE TYPE AND CODE (SEE INSTRUCTIONS) 2P/20			
STATUTORY BASIS FOR CAUSE OF ACTION (SEE INSTRUCTIONS)			
RELATED PENDING CASES (LIST BY CASE CAPTION AND DOCKET NUMBER)		IS CASE SUBJECT TO COORDINATION ORDER?	
		Yes No <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	
TO THE OFFICE OF JUDICIAL RECORDS: Kindly enter my appearance on behalf of Plaintiff/Petitioner/Appellant: Papers may be served at the address set forth below.			
NAME OF PLAINTIFF'S/PETITIONER'S/APPELLANT'S ATTORNEY John F. Kennedy, Esquire		ADDRESS (SEE INSTRUCTIONS) 200 S. Broad Street, Ste. 500 Philadelphia, PA 19102	
PHONE NUMBER 215-875-4000	FAX NUMBER 215-875-4001		
SUPREME COURT IDENTIFICATION NO. 88794		E-MAIL ADDRESS jkennedy@gracekennedylaw.com	
SIGNATURE 		DATE 11/3/21	